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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,983	04/05/2000	RALPH ROGIER DE LA BRETONIERE	BO41539	9140
466	7590	08/13/2004	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			WON, MICHAEL YOUNG	
		ART UNIT		PAPER NUMBER
		2155		

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/509,983	DE LA BRETONIERE, RALPH ROGIER
	Examiner	Art Unit
	Michael Y Won	2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 May 2004.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 1-20 have been re-examined and are pending with this action.

***Claim Objections***

2. Claims 16 and 18 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 16 and 18 reiterate claims 12 and 14, respectively.

**NOTE:** The examiner agree that claims 12 and 14 refers to a telephone line and claims 16 and 18 refers to a communications line, however, a communication line is broad interpretation of a telephone line. In other words, a telephone line is a subset or a form of a communication line and thus claims 16 and 18 fails to further limit the subject matter of a previous claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 4, 10-11, 13, 15, 17, and 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Green et al. (US 6003084 A).

As per claim 1, Green teaches a method for protecting data communication, traffic between a first communication station (11) (see Fig.2, #216; and col.7, lines 60-62) and a second communication station (12) (see Fig.2, #214; and col.7, lines 60-62), in which the data is dispatched according to a data protocol from the second communication station to the first communication station (see col.5, lines 29-32), comprising the steps of: (i) receiving the data from the second communication station (12) in a data communication protection device (10) (see col.7, lines 63-66 and col.8, lines 16-17), the protection device having i) a first input for connection to an incoming communication line receiving the data communication from the second communication station, ii) a second input for connection to the first communication station (see Fig.2,

and Fig.3b), iii) a comparison and forwarding module connected intermediate the first input and the second input and establishing a physical communication link between the first input and the second input (see Fig.2, #212 and col.7, lines 57-60 ), and iv) a memory (see Fig.1, and col.7, lines 36-39 & 48-57) connected to the comparison and forwarding module, the memory unit storing characteristics of a standardized communications protocol of first communication device (see col.10, lines 40-43), the comparison and forwarding module configured to compare the standardized communication protocol to a data protocol of incoming data from the first input (see col.5, lines 3-8; col.8, line 66 to col.9, line 5; and col.10, lines 40-43), and i) to forward the incoming data to the second input when the comparison determines the data protocol conforms with the standardized communications protocol (see col.9, lines 41-43) and ii) to physically open the communication link when the comparison determines the data protocol fails to conform with the standardized communication protocol (see col.10, lines 40-61; and col.12, lines 14-19); (ii) comparing the data protocol of the data with the standardized communication protocol in the data communication protection device (10) (see col.8, line 66 to col.9, line 5), characterized by (iii) forwarding data of which the data protocol complies with the standardized communication protocol from the data communication protection device (10) to the first communication station (11) (see col.9, lines 41-43), and not forwarding data of which the data protocol does not comply with the standardized communication protocol from the data communication protection device to the first communication station (see

col.10, lines 40-43, lines 48-57, & lines 60-61; and col.12, lines 14-19) by physically opening the communication link within the protection device to prevent communications between the first communication station (11) and the second communication station (12) (see col.10, lines 43-47, 51, and 56-57). It is inherent that when communication links are physically opened the communication links can no longer transfer current thereby preventing data to be communicated and therefore does not patentably distinguish the invention.

As per claim 4, Green teaches of a data communication protection device (10) (see Fig.1 and col.7, lines 36-47) arranged for protecting data communication traffic between a first communication station (11) (see Fig.2, #216; and col.7, lines 60-62) and a second communication station (12) (see Fig.2, #214; and col.7, lines 60-62), data being dispatched according to a data protocol from the second communication station to the first communication station (see col.5, lines 29-32), the data communication protection device comprising: a first input for connection to an incoming communication line receiving the data communication from the second communication station (see Fig.2, and Fig.3b); a second input for connection to the first communication station (see Fig.2, and Fig.3b); a comparison and forwarding module connected intermediate the first input and the second input and establishing a physical communication link between the first input and the second input (see Fig.2, #212 and col.7, lines 57-60); and a memory (see Fig.1, and col.7, lines 36-39 & 48-57) connected to the comparison and forwarding module, the memory unit storing characteristics of a

standardized communications protocol of first communication device (see col.10, lines 40-43), the comparison and forwarding module configured to compare the standardized communication protocol to a data protocol of incoming data from the first input (see col.5, lines 3-8; col.8, line 66 to col.9, line 5; and col.10, lines 40-43), and i) to forward the incoming data to the second input when the comparison determines the data protocol conforms with the standardized communications protocol (see col.9, lines 41-43) and ii) to physically open the communication link when the comparison determines the data protocol fails to conform with the standardized communication protocol (see col.10, lines 40-61; and col.12, lines 14-19).

As per claim 10, Green teaches a remote diagnostic and protective device, comprising: a first input for connection to an incoming communication line (see Fig.2, and Fig.3b); a second input for connection to a communication apparatus (see Fig.2, and Fig.3b); a comparison and forwarding module connected intermediate the first input and the second input and establishing a physical communication link between the first input and the second input (see Fig.2, #212 and col.7, lines 57-60); and a memory (see Fig.1, and col.7, lines 36-39 & 48-57) connected to the comparison and forwarding module, the memory unit storing characteristics of a standardized communications protocol (see col.10, lines 40-43), the comparison and forwarding module configured to compare the standardized communication protocol to a data protocol of incoming data from the first input (see col.5, lines 3-8; col.8, line 66 to col.9, line 5; and col.10, lines 40-43), and i) to forward the incoming data to the second input when the comparison

determines the data protocol conforms with the standardized communications protocol (see col.9, lines 41-43) and ii) to physically open the communication link when the comparison determines the data protocol fails to conform with the standardized communication protocol (see col.10, lines 40-61; and col.12, lines 14-19).

As per claims 20, Green further teaches wherein the standardized communication protocol is other than a TCP/IP protocol component (see col.11, lines 44-47).

As per claims 11, 13, 15, 17, and 19, Green further teaches wherein when the comparison and forwarding module opens the communication link, a data file of the incoming data is stored in the memory (see col.4, lines 31-33 & 48-61 and col.5, line 6).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12, 14, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green et al. (US 6003084 A).

As per claims 12, 14, 16, and 18, Green does not explicitly teach wherein, the first input is for connection to an incoming telephone line; the second input is for connection to a telefax machine or photocopy machine; and the memory unit stores

characteristics of a standardized protocol of telefax communication or standardized protocol of photocopy communication, the comparison and forwarding module is configured to compare the standardized telefax protocol or the standardized photocopy protocol to the data protocol of incoming data from the first input, and i) to forward the incoming data to the second input when the comparison determines the data protocol conforms with the standardized telefax protocol or the standardized photocopy protocol and ii) to physically open the communication link when the comparison determines the data protocol fails to conform with the standardized telefax protocol or the standardized photocopy protocol. However these differences are only found in nonfunctional descriptive material and are not functionally involved in the steps recited. The comparison to the standardized protocol step, the forwarding to the second input step when conformation is verified, and the physically opening step when conformation is not verified, will be performed the same regardless of the protocol implemented. Thus this descriptive material will not distinguish the claimed invention from prior art in terms of patentability and the patent office will not issue patents based on each different protocol implemented, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowery*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement any protocol as the standardized protocol because such implementation does not functionally relate to the steps in the method

claimed because the subjective interpretation of the protocol does not patentably distinguish the claimed invention.

5. Claims 2 and 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Green et al. (US 6003084 A) in view of Azuma et al. (US 6430150 B1).

As per claims 2 and 5, Green teaches all the limitations except that, after it has emerged during the comparison/forwarding means of the data protocol that the latter does not comply with the at least one standardized protocol, a warning means is generated. Azuma teaches of a warning means (see col.9, lines 23-25 & lines 29-32). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Azuma within the system of Green, by implementing a warning mechanism within the data communication protection device and method because this would allow for a notification mechanism to either an administrator or even a device such as a firewall, to take the necessary steps to avoid a possible hacker. By merely adding a warning mechanism does not patentably distinguish an invention over prior art because the alarming means is by choice rather than a necessity.

6. Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green et al. (US 6003084 A) in view of Engel (US 5124984 A).

As per claim 3, Green further teaches all the limitations except that, after it has emerged during the comparison of the data protocol that the latter does not comply with the at least one standardized protocol, a data file containing data of the data communication traffic and the second communication station (12) is stored. Engel teaches of storing all access into a list (see Fig.3, #110; col.4, lines 42-45; and col.10, lines 50-51). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Engel within the system of Green, by storing the not forwarding data within the data communication protection method because; this would allow for the device to keep a record of possible unauthorized communication stations; due to network problems, avoid having to buffer the data again; or use this data to generate a reply (see Green: col.10, line 60 to col.11, line 4).

As per claim 8, Green further teaches of a device, characterized in that the device comprises interface means (see col.7, lines 44-47) for exchanging data relating to the data communication traffic and the second communication station (12) with an external processing device (see col.10, lines 9-16). Green does not teach that the data are stored after it has emerged during the comparison of the data protocol that the latter does not comply with the at least one standardized protocol. Engel teaches of storing all access into a list (see Fig.3, #110; col.4, lines 42-45; and col.10, lines 50-51). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Engel within the system of Green, by

storing the not forwarding data within the data communication protection device because; this would allow for the device to keep a record of possible unauthorized communication stations; due to network problems, avoid having to buffer the data again; or use this data to generate a reply (see Green: col.10, line 60 to col.11, line 4).

7. Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green et al. (US 6003084 A) in view of Boebert et al. (US 5864683 A) and Engel (US 5124984 A).

As per claim 6, Green teaches all the limitations except that the device furthermore comprises display means (17) linked to the comparison/forwarding means (15), the display means (17) displaying data relating to the data communication traffic and the second communication station (12), which data are stored after it has emerged during the comparison of the data protocol that the latter does not comply with the at least one standardized protocol. Boebert teaches display means, the display means displaying data relating to the data communication traffic and the second communication station (see col.13, lines 22-28). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Boebert within the system of Green, by displaying data relating to the both communication stations within the data communication protection device because Green teaches of monitoring the communications (see Green: col.2, line 14; col.5, line 39; and col.11, lines 57-60) and a visual display is another form of monitoring which can be performed. Engel teaches of storing all access into a list (see Fig.3, #110; col.4,

lines 42-45; and col.10, lines 50-51). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Engel within the system of Green, by storing the not forwarding data within the data communication protection device because; this would allow for the device to keep a record of possible unauthorized communication stations; due to network problems, avoid having to buffer the data again; or use this data to generate a reply (see Green: col.10, line 60 to col.11, line 4).

8. Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green et al. (US 6003084 A) in view of Boebert et al. (US 5864683 A).

As per claim 7, Green teaches of does not teach that the device furthermore comprises input means (18) linked to the comparison/forwarding means (15) for inputting commands relating to the display of the data. Boebert teaches of input means for inputting commands relating to the display of the data (see col.13, lines 22-28). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Boebert within the system of Green, by comprising an input means for inputting commands within the data communication protection device because Green teaches of monitoring the communications (see Green: col.2, line 14; col.5, line 39; and col.11, lines 57-60) and a visual display is another form of monitoring which can be performed. Furthermore, a display is only used when

there is a person using it such as an administrator, therefore, would also have the ability to override or make changes to the system by means of an input apparatus.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green et al. (US 6003084 A) in view of Barr (US 4763357 A).

As per claim 9, Green teaches all the limitations except that the device is integrated in the first communication station. Barr teaches of a secure communication device integrated at each station (see abstract, 2<sup>nd</sup> and 3<sup>rd</sup> sentence; and col.9, lines 9-11). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Barr within the system of Green, by integrating the device in the first communication center within the data communication protection device because this would allow for each station to control all communications into and out of that particular station and reduce cost by reducing the need for a plurality of devices for a plurality of communication connections.

***Response to Remarks***

10. In response to the applicant's remarks regarding comments 1-6, 8, 10, 14-21, 26, 27, 29, 31, and 32, references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., namely "RCID") are not recited in the rejected claim(s). Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, it is not the Green reference that is in prosecution, but rather the claimed language of the applicant(s). Clearly Green teaches one of ordinary skill in the art all the functional limitations recited in the claimed language.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In response to the arguments regarding "physically open", Green clearly teaches this limitation (see col.10, lines 45-47). When Green discloses, "cancel both sessions and close the connections", one of ordinary skill in the art would conclude that this teaches the limitation because closing the connection results in terminating communication and when communication links are physically opened the communication links can no longer transfer current ("opened circuit") thereby preventing data to be communicated. Furthermore, the applicant(s) recited in comment 10 that such physical closure, although not appropriate, is possible and therefore teaches this limitation.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

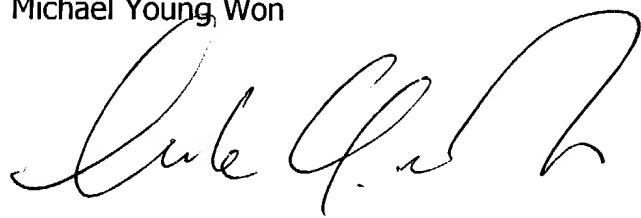
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Y Won whose telephone number is 703-605-4241. The examiner can normally be reached on M-Th: 6AM-3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T Alam can be reached on 703-308-6662. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Young, Won



August 10, 2004

*mlam*  
HOSAIN ALAM  
ADVISORY PATENT EXAMINER